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Attorneys for Petitioner
TEAMSTERS LOCAL 848

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21

WHOLESALE DELIVERY DRIVERS,
GENERAL TRUCK DRIVERS,
CHAUFFEURS, SALES, INDUSTRIAL
AND ALLIED WORKERS,
TEAMSTERS LOCAL 848,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS,

Petitioner,

vs.

SAVAGE SERVICES CORPORATION,

Respondent.

CASE NO. 21-RC-219057

**FILED CONCURRENTLY WITH
TEAMSTER LOCAL 848'S
OPPOSITION TO SAVAGE SERVICE
CORPORATION'S REQUEST FOR
REVIEW OF THE REPORT AND
DIRECTION TO OPEN AND COUNT
CERTAIN CHALLENGED BALLOTS**

I. Introduction

Pursuant to Section 102.67 of the Board's Rules and Regulations, the Employer requested review of the Regional Director's Report and Direction to Open and Count

Certain Challenged Ballots, in which the Regional Director found the seven on-call petroleum coke drivers eligible to vote in a diverse petitioned-for unit, which includes all full-time and regular part time petroleum coke truck drivers, sweeper drivers, hazmat drivers and mechanics. The Employer insists that certain differences in the terms and conditions of the on-call drivers' employment warrant their exclusion from the petitioned-for unit. But as the Regional Director concluded following an administrative review of the parties evidence, exhibits, position statements, and legal analysis, the challenges with respect to the on call drivers do not raise substantial and material factual issues that would warrant a hearing to reconsider his determination. Indeed, it is undisputed that the on-call drivers satisfy the Board's eligibility criteria under the *Davison-Paxon* formula, which itself establishes "sufficient community of interest for inclusion in the unit."¹ Furthermore, the facts alluded to by the Employer regarding the differences between on call employees and other petroleum coke drivers—the purported distinctions in pay and scheduling—even if true would be insufficient to overcome the clear community of interest between the on-call drivers and other unit employees.

Accordingly, Petitioner respectfully urges that the Employer's request for review be promptly denied, that any request for a stay be soundly rejected, and that the challenged ballots of the on call petroleum coke drivers be opened forthwith. Indeed, opening the challenged ballots of the on call drivers is likely to be determinative and obviate the need for a hearing regarding the remaining outstanding ballots. The Act's policy of expeditiously resolving questions concerning representation should no longer be thwarted by an employer that has been undaunted in its efforts to violate the National Labor Relations Act, looking for every opportunity to delay, stifle, and chill the ability of its unit employees to exercise their section 7 rights to choose union representation.²

¹ *Davison-Paxon Co. Div.* ("Davison-Paxon"), 185 NLRB 21, 22-23 (1970).

² There are multiple unfair labor practice charges regarding the conduct of the Employer

II. Argument

A. Traditional Community of Interest Principles

In determining whether the employees in a petitioned-for group share a community of interest, the Board considers whether: the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work; are functionally integrated with the employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.³

The Employer's claim that on-call drivers lack a community of interest with other unit employees is nonsensical. The Employer strains credulity beyond the breaking point as it turns *PCC Structural Inc*⁴ on its head to argue that it would be appropriate under traditional community of interest standards to exclude the seven on call drivers from the unit of approximately 121 drivers and mechanics, because somehow the seven share a community of interest sufficiently distinct from a unit of full time and regular part time drivers and mechanics, notwithstanding the undisputed facts that those seven on call drivers are regular part time employees under the *Davison-Paxon* criteria. Moreover, the Union need not petition for an *ideal* unit, but only an appropriate one and more than one unit may be appropriate.⁵ Here, the traditional community of interest analysis dictates

leading up to the election, including hallmark violations (threats of plant closure). *See* Case Nos. 21-CA-216288 & -220027.

³ *United Operations, Inc.*, 338 NLRB 123 (2002).

⁴ 365 NLRB No. 160, at 5 (2017).

⁵ *See Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950) ("There is nothing in the statute which requires that the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the *most* appropriate unit; the Act requires only that the unit be 'appropriate.'") (emphasis in original); *Overnite Transp. Co.*, 322 NLRB 723 (1996) ("It is well-settled . . . that there is more than one way in which employees of a given employer may be appropriately grouped for purposes of collective bargaining.").

that the on-call drivers are a part of a larger driver/mechanic unit. The sole distinctions are minor differences in scheduling and pay.⁶ These differences cannot overcome the community of interest that on-call drivers share with other unit employees.

B. A Hearing Is Not Required Under These Circumstances.

The Employer contends an evidentiary hearing is required on this issue, however, Section 102.69(c)(1)(i) of the Boards Rules and Regulations explicitly permits a Regional Director to issue a decision disposing of an Employer's determinative ballot challenges if the Regional Director determines that such challenges do not raise "substantial and material factual issues."⁷ Here, the Regional Director provided the parties an opportunity to present evidence regarding this issue as well as legal analysis and, "[b]ased upon an administrative review of the parties' statements of position, exhibits, and legal analysis," determined that the Employer's challenges did not raise substantial and material factual issues warranting an evidentiary hearing. (Report and Direction at 6.) The Regional Director also concluded that "there is no further probative evidence" the Employer could present that would raise such an issue. (Id.) Nothing in the Regional Director's decision suggests that the petitioned-for unit has received a preferential status in this analysis.

Contrary to the Employer's contention, the Regional Director had no obligation to hold an evidentiary hearing on the challenged ballots. The Employer has now received two opportunities—once in its position statement to the Regional Director and once in its Request for Review—to produce evidence demonstrating that a material issue of fact

⁶ Savage Services Corporation's Request for Review of the Report and Direction to Open and Count Certain Challenged Ballots at 4.

⁷ *Southwest Color Printing Corp.*, 247 NLRB 917 (1980) (holding in an objections proceeding that "[w]here, as here, it appears from the Regional Director's decision and Respondent's brief in support of the request for review that no substantial and material issues exists, we find that it is a proper exercise of our discretion to deny the request for review on that basis. Such finding is supported by the Act's policy of expeditiously resolving questions concerning representation.").

exists. The Request for Review does not contain any documents or declarations supporting the Employer's counsel's bald assertion that a material issue of fact exists. Rather, it is evident that the Regional Director appropriately advanced the Board's policy of expeditiously resolving questions concerning representation by its administrative determination that the on call drivers are eligible to vote, and that their ballots should be opened forthwith.

C. The On-Call Drivers Perform the Same Work As Other Petroleum Coke Drivers

As the administrative record establishes, the on-call drivers cannot be distinguished from full-time and regular part-time petroleum coke drivers on the basis of their job functions, duties, or skills. The Employer's Statement of Position in this case acknowledged that these drivers have the same job as other petroleum coke drivers.⁸ All petroleum coke drivers perform the same basic function of hauling petroleum coke: loading, transporting, and delivering petroleum coke in a double tractor trailer from the Employer's operation to a local port, reporting maintenance issues to the maintenance crew, and actively participating in the Employer's safety program. Thus, the on-call drivers do not have a separate community of interest with regard to their job function, duties, or skills and should be included in the petitioned-for unit.

The on-call drivers are not isolated from the boarder unit. For example, shop mechanics service and maintain the tractor trailers that drivers use to load, transport, and deliver materials. Some sulfur truck drivers haul petroleum coke and some sweeper truck drivers provide coverage for sulfur truck drivers.

⁸ Savage Services Corporation's Statement of Position in Case No. 21-RC-219057, Attachment B. The Statement is attached as Exhibit A.

D. The On-Call Drivers Share Most of the Terms and Conditions As Other Employees and Any Distinctions Are Insufficient to Justify Separating Them.

Here, the similarities in the terms and conditions of employment of on-call drivers and full-time and regular part-time petroleum coke drivers substantially outweigh any minor differences. The two differences the Employer cites—differences in scheduling and differences in pay—are insufficient to overcome the community of interest that on-call drivers share with other employees in the petitioned-for unit. Neither the manner in which employees are scheduled nor the number of hours they work is determinative of a community of interest. The Board has recognized units as appropriate where they are comprised of full-time employees who work pursuant to a fixed, prearranged schedule and on-call employees who perform unit work on a regular—though unscheduled—basis.⁹ Under the *Davison-Paxon* eligibility formula, “*any contingent or extra employee who regularly averages 4 hours or more per week for the last quarter prior to the eligibility date has a **sufficient community of interest for inclusion in the unit** and may*

⁹ See *Newton-Wellesley Hosp.*, 219 NLRB 699, 703 (1975) (finding that on-call nurses who worked less hours and less regularly than full-time staff nurses, and did not share in the employer's fringe benefit program, were nevertheless properly included in a unit with full-time staff nurses); *S.S. Joachim and Anne Residence*, 314 NLRB 1191, 1193 (1994) (finding that on-call RNs could properly be included in a unit with full-time RNs based on (1) similarities in the work they performed and (2) the regularity and continuity of their employment); *Trump Taj Mahal Casino Resort*, 306 NLRB 294, (1992) (upholding Regional Director's Decision and Direction of Election which concluded that certain on-call employees could be included in a unit with full-time employees based on (1) the on-call employees' performance of unit work and (2) the regularity in on-call employees' employment); *V.I.P. Movers, Inc.*, 232 NLRB 14, 15 (1977) (finding that on-call employees' ability to take personal leave at will, accept or reject employment, or vary the number of hours of work in any day or week according to their personal choice, were “insufficient to warrant the exclusion of on-call employees who work[ed] on a frequent, though unscheduled, basis, perform[ed] the same tasks in the same areas and under the same supervision as other employees, and therefore share[d] a community of interest with the Employer's other employees”).

vote in the election.¹⁰ The *Davison-Paxon* eligibility formula¹¹ accounts for any differences in hours by ensuring that employees are scheduled a sufficient number of shifts to have a continuing interest in the unit.¹² The Employer concedes that the on-call drivers satisfy the *Davison-Paxon* eligibility formula, which effectively concedes that they have a community of interest with the petroleum coke drivers and the rest of the unit. The regularity of the on-call drivers' employment establishes the appropriateness of their inclusion in the petitioned-for unit. Moreover, the petroleum coke on call drivers have the same shift change times as all other petroleum coke drivers—5 a.m. and 5 p.m., supporting the Union's contention that they have substantially identical duties.¹³

Additionally, it is well established that “differences in compensation rates do not destroy a community of interest among employees and [do] not require that they be in separate units.”¹⁴ The differences in the compensation for employees here are

¹⁰ *Davison-Paxon*, 185 NLRB at 23–24 (emphasis added); see also *Wadsworth Theatre Management*, 349 NLRB 122 (2007) (applying *Davison-Paxon* formula to uphold temporary employee's eligibility despite employer's contention that employee, who had been hired for the duration of a four-week production, had no reasonable expectation of future employment); *New York Display & Die Cutting Corp.*, 341 NLRB 930 (2004) (applying *Davison-Paxon* formula to uphold employee's eligibility where employee worked 28.5 hours, an average of 14.25 hours per week, during the 2 weeks preceding the election); *Riverside Community Memorial Hosp.*, 250 NLRB 1355 (1980) (upholding on-call employee's eligibility against employer challenge where employee averaged more than 4 hours or more of work per week during the quarter prior to the eligibility date).

¹¹ *Davison-Paxon*, 185 NLRB at 23–24.

¹² See *Columbus Symphony Orchestra*, 350 NLRB No. 049, at 524 (2007) (“The Board's election eligibility formulas are designed to permit optimum employee enfranchisement and free choice, without enfranchising individuals with no real continuing interest in the terms and conditions of employment offered by the employer.”) (internal quotation marks and citation omitted).

¹³ Savage Services Corporation's Statement of Position in Case No. 21-RC-219057, Attachment B.

¹⁴ *Four Winds Servs., Inc.*, 325 NLRB 632 (1998) (upholding ALJ's determination that employer failed to sustain burden of showing that bargaining unit was inappropriate

insubstantial. Attached as Exhibit B are three pay statements: two from two recently-terminated petroleum coke drivers (the Section 8(a)(3) discriminatees—Omar Rivas and Daniel Ortiz) and one from an on-call driver (Martin Overa). Mr. Overa’s statement is a year-end summary from 2017. The two pay stubs are for the payroll period ending March 2, 2018, capturing approximately two months of income. Multiplying the year-to-date earnings gives rough approximations of what yearly income would be for hourly and regular pay (though not for every type of pay, such as exhausted banked time or bonuses). The documents demonstrate that both types of employees receive hourly pay, regular pay, a quarterly bonus, overtime, holiday pay, paid time off, and retirement benefits. Although the amounts are slightly different, they are not dramatically different as the Employer claims—certainly not dramatically different enough to justify exclusion from the unit. Here, the similarities discussed above, and the undisputed fact that on-call drivers receive the same benefits as full-time and regular part-time petroleum coke drivers, offset any small difference in the drivers’ pay.¹⁵

simply because the wages and benefits of some employees were governed by the Davis-Bacon Act); *see also Columbia Uni.*, 364 NLRB No. 90 (2016) (finding that differences in level and type of compensation and in the nature of work assignments did not negate the shared community of interest of employees in the petitioned-for unit, given many other relevant similarities); *Los Angeles and Power Employees’ Association*, 340 NLRB 1232, 1236 (2003) (finding that disparity in pay did not outweigh other community-of-interest factors, all of which favored employee’s inclusion in unit); *United States Aluminum Corporation-Northeast*, 305 NLRB 719 (1991) (finding shared community of interest between temporary employee and unit employees based on shared duties, supervision, and conditions of employment despite temporary employee’s different rate of pay); *Hotel Services Group, Inc.*, 328 NLRB No. 30 (1999) (holding that petitioned-for licensed massage therapists did not possess a separate community of interest apart from the employer’s other licensed salon and spa personnel even though they all received different combinations of hourly rates, commissions, and gratuities).

¹⁵ In addition to the documents provided by the Union, the Regional Director has at his disposal witness affidavits from Case Nos. 21-CA-216288 & -220027 describing terms and conditions of work for on call drivers on which he could rely to determine whether the community of interest analysis would be impacted by the distinctions between on-call

E. The Diversity Within the Unit the Employer Insisted Upon at the Representation Hearing Suggests Such Minor Differences Are Immaterial Here.

The Employer's argument is particularly unpersuasive as throughout this proceeding Savage has requested the unit include a large group of drivers with diverse hours and pay. In its Statement of Position, Savage claimed that the only appropriate unit would be one with sulfur drivers, mechanics and hourly supervisors.¹⁶ The sulfur drivers have different hours from the petroleum coke drivers, working between 2 p.m. and 2 a.m. Similarly, the mechanics work a variety of hours, including from 2 p.m. to 2 a.m., 4 a.m. to 12:30 p.m., and 4 p.m. to 4 a.m.¹⁷ The sulfur drivers and mechanics are paid hourly, while the petroleum coke drivers are paid hourly rates and by the load. Finally, the hourly supervisors are paid much more than either and receive bonuses, but still Savage's position has consistently been that they must be included in any unit. The Board has found where diversity exists within a unit sought, that excluding employees based on those same distinctions is inappropriate.¹⁸ Moreover, if the Employer is correct, the result would be a unit of only seven on-call petroleum coke drivers—small group that would be fractured from the unit that would have every other driver included.

III. Conclusion

For all of the above-noted reasons, it is abundantly clear that the Regional Director

and regular drivers.

¹⁶ Savage Services Corporation's Statement of Position in Case No. 21-RC-219057.

¹⁷ Savage Services Corporation's Statement of Position in Case No. 21-RC-219057, Attachment C.

¹⁸ *Sylvania Elec. Prod., Inc.*, 113 NLRB 375, 376 (1955) (proposed unit inappropriate where petitioner sought unit "dispersed throughout the Employer's three buildings, [with employee who] have diverse supervision, and most of them do unskilled work similar to that of other employees not sought").

made a sound decision, after thorough administrative review, that the on call drivers are appropriately part of the petitioned for unit and eligible to vote. The Employer has not raised substantial and material factual issues that would warrant a hearing to reconsider his determination. Accordingly, the Employer's Request for Review should be denied promptly and the ballots of the on call drivers opened forthwith.

DATED: July 19, 2018

JULIE GUTMAN DICKINSON
MEGAN L. DEGENEFFE
BUSH GOTTLIEB, A Law Corporation

By:



JULIE GUTMAN DICKINSON
Attorneys for Petitioner
TEAMSTERS LOCAL 848

Exhibit A

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION**DO NOT WRITE IN THIS SPACE**Case No
21-RC-219057

Date Filed

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing. Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position Savage Services Corporation		1c. Business Phone: 310-212-1833	1e. Fax No.: 310-212-1834
1b. Address (Street and number, city, state, and ZIP code): 1635 East Denni Street, Wilmington, California 90744-3903		1d. Cell No.: 415-350-6388	1f. e-Mail Address: ebronchetti@mwe.com
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards. (The union's proposed unit is not appropriate because it excludes classifications of employees who are functionally integrated with the petitioned for unit. The unit sought by the petition is fractured. The individuals excluded from the petitioned-for unit share an overwhelming community of interest with those in the petitioned for unit such that they should not be excluded. Hourly supervisors excluded from the petition are not Section 2(11) supervisors and should be included in the unit as they are improperly excluded and share an overwhelming community of interest with those in the petitioned-for unit.			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added: Mechanics, Sweeper Drivers, Hazmat Drivers, Hourly Supervisors Excluded: On-call employees listed in Attachment D.			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the basis for your position) None			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015 (a) A List containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B). (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D).			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s): No earlier than May 24; Wednesdays and Thursdays are best for operations	8c. Time(s): 3 am – 6 am and 3 pm – 6 pm	8d. Location(s): Drivers' breakroom	
8e. Eligibility Period (e.g. special eligibility formula):	8f. Last Payroll Period Ending Date: April 27, 2018	8g. Length of payroll period <input type="checkbox"/> Weekly <input checked="" type="checkbox"/> biweekly <input type="checkbox"/> Other (specify length) _____	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative Ellen M. Bronchetti, Esq.		9c. Date May 2, 2018	
9d. Address (Street and number, city, state, and ZIP code) McDermott Will & Emery LLP, 275 Middlefield Road, Suite 100, Menlo Park, California 94025		9e. e-Mail Address ebronchetti@mwe.com	
9f. Business Phone No.: 650.815.7460	9g Fax No.: 650.815.7401	9h Cell No. 415.350.6388	

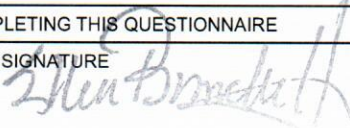
**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

ATTACHMENT A

QUESTIONNAIRE ON COMMERCE INFORMATION

*Please read carefully, answer all applicable items, and return to the NLRB Office.
If additional space is required, please add a page and identify item number.*

CASE NAME SAVAGE SERVICES CORPORATION						CASE NUMBER 21-RC-219057	
1. EXACT LEGAL TITLE OF ENTITY (<i>As filed with State and/or stated in legal documents forming entity</i>) SAVAGE SERVICES CORPORATION							
2. TYPE OF ENTITY <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> OTHER (<i>Specify</i>)							
3. IF A CORPORATION OR LLC A. STATE OF INCORPORATION OR FORMATION B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES Utah 901 W. Legacy Center Way, Midvale, Utah 84047							
4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS							
5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR							
6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (<i>Products handled or manufactured, or nature of services performed</i>) Transportation of Petroleum Coke, Sulphur, and Acid products.							
7A. PRINCIPAL LOCATION				7B. BRANCH LOCATIONS			
8. NUMBER OF PEOPLE PRESENTLY EMPLOYED A. TOTAL B. AT THE ADDRESS INVOLVED IN THIS MATTER 118							
9. DURING THE MOST RECENT (<i>Check the appropriate box</i>): <input type="checkbox"/> CALENDAR <input checked="" type="checkbox"/> 12 MONTHS or <input type="checkbox"/> FISCAL YEAR FY DATES							
						YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.							x
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.						x	
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.							x
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.						x	
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.							x
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.						x	
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.						x	
H. Gross Revenues from all sales or performance of services (<i>Check the largest amount</i>): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 or more <i>If less than \$100,000, indicate amount.</i>							
I. Did you begin operations within the last 12 months? If yes, specify date:							x
10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYEE GROUP THAT ENGAGES IN COLLECTIVE BARGAINING? <input type="checkbox"/> YES <input type="checkbox"/> NO (<i>If yes, name and address of association or group</i>)							
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS							
NAME Brad Crist		TITLE EVP & Group Leader RPS		E-MAIL ADDRESS BradCrist@savageservices.com		TEL. NUMBER 801-944-6611	
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE							
NAME AND TITLE Ellen M. Bronchetti McDermott Will & Emery LLP		SIGNATURE 		E-MAIL ADDRESS ebronchetti@mwe.com		DATE 05/02/2018	

ATTACHMENT B

<u>Name</u>	<u>Location Name</u>	<u>Job Name</u>	<u>Shift</u>
Andrade, Jose	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Anguiano, Gabriel	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Avery, Markiece	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Avila, Victor	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Baker, William	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Barrios, Juan	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Bautista, Eric	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Bowie, Anthony	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Caccuciolo, Mark	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Campos, Alfonso	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Canyon, Anthony	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Carrillo, Alfredo	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Casanova, Sal	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Casiano, Delfino	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Castro, Jose	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Cerna-Contreras, Diego	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Chamness, Brendan	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Chavez, Francisco	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Cortez, Jorge	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Cortez, Juan	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Corzo-Monroy, Vinicio	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Cox, Gilbert	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Cun, Thomas	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
De La Torre, Marcos	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Deluna, Israel	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Diaz, Gabriel	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Dip, Johnny	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Escobar, Aniceto	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Garcia, Jaime	41000 Wilmington	Petcoke Driver	5 AM to 5 PM

Garcia, Jimmy	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Garnica, Rene	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Gomez, Claudio	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Gonzalez, Federico	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Gramajo, Carlos	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Guevara, Maclovio	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Guzman Maldonado, Arnulfo	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Hall, David	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Hernandez, Juan	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Hernandez, Noe	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Holland, Anthony	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Holley, Tonya	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Jaminal, Joseph	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Jimenez, Salvador	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Jones, Robert	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Kim, Pov	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Kwak, David S.	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Leon, Alejandro	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Llamas, Genaro	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Luna, Vidal	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Macias, Enrique	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Marinero, Edgar	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Marquez, Michael	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Martinez, Jose	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Maternal, Owen	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Mcgoldrick, Daniel	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Medina, Nelson	41000 Wilmington	Petcoke Driver	5 PM to 5 AM ON CALL
Merryman, Sherman	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Miranda, Gelbert	41000 Wilmington	Petcoke Driver	5 AM to 5 PM

Mitchell, Reginald	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Morales, Charles	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Munoz, Vicente	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Nevada, Gregory	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Newell, Lesley	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Nora, Johnny C.	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Olvera, Stephan	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Orantes, Jorge	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Ortiz, Benny	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Overa, Martin	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Patterson, Carlton	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Paul, David	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Perez, Erick	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Piedy Ramirez, Rony	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Porter, Robert	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Prado, Saul	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Ramirez, Amadeo	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Ramirez, Estuardo	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Reyes, Alfredo	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Richardson, Bryant	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Rivers, Tommie	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Robinson, Sydney	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Robledo, Javier	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Rodriguez, Inocencio	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Salazar, Manuel	41000 Wilmington	Petcoke Driver	5 PM to 5 AM ON CALL
Salvatierra Vasquez, Denys	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Sanchez, Alejandro	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Scranton, Gaston	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Sherman, Vaughn	41000 Wilmington	Petcoke Driver	5 PM to 5 AM

Smith, Darren	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Stevenson, Dario	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Swanson, Ronald	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Taylor, Alex	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Thomas, Adam	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Torres, Ignacio	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Vargas, Manuel	41000 Wilmington	Petcoke Driver	5 AM to 5 PM
Vasquez, Edward	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Vick, Alcee	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Walker, Eric L.	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Walker, Marc A.	41000 Wilmington	Petcoke Driver	5 PM to 5 AM
Young, John	41000 Wilmington	Petcoke Driver	5 PM to 5 AM ON CALL

ATTACHMENT C

<u>Name</u>	<u>Location Name</u>	<u>Job Name</u>	<u>Shift</u>
Adams, Marvin E.	41110 South Bay	Hazmat Drivers	3 AM to 3 PM
Cabrera, Mario	41000 Wilmington	Mechanic	4 AM to 12:30 PM
Cardona, Jose	41000 Wilmington	Mechanic	4 PM to 4 AM
Carranza, Maximiliano	41000 Wilmington	Mechanic	4 AM to 1:30 PM
Cifuentes, David, E.	41110 South Bay	Hazmat Drivers	3 AM to 3 PM
Duarte, Armando Q.	41110 South Bay	Hazmat Drivers	12 PM to 12 AM
Fuentes, Leopoldo	41000 Wilmington	Mechanic	5 PM to 5 AM
Garibay, Baltasar	41000 Wilmington	Hourly Supervisor	6:30 PM to 6:30 AM
Gonzalez, Carlos	41000 Wilmington	Mechanic	2 PM to 2 AM
Juarez, Cody	41000 Wilmington	Mechanic	4 PM to 4 AM
Lopez, Juan F.	41110 South Bay	Hazmat Drivers	3 AM to 3 PM
Marquez, Victor	41110 South Bay	Hazmat Drivers	4 AM to 4 PM
Munoz, Jose	41000 Wilmington	Mechanic	2 PM to 2 AM
Nunez, Victoriano	41110 South Bay	Hazmat Drivers	3 AM to 3 PM
Pacheco, Fredy	41000 Wilmington	Mechanic	2 AM to 2 PM
Palomares, Jose	41000 Wilmington	Mechanic	9 Am to 7:30 PM
Perez, Wilfredo	41000 Wilmington	Hourly Supervisor	6:30 AM to 6:30 PM
Rangel, Benjamin	41110 South Bay	Hazmat Drivers	3 AM to 3 PM
Robles, Rosendo	41000 Wilmington	Mechanic	6 AM to 2:30 AM
Rodriguez, Jose	41110 South Bay	Hazmat Drivers	2 PM to 2 AM
Roybal, Gerald	41000 Wilmington	Hourly Supervisor	6:30 AM to 6:30 PM
Terrazas, Humberto	41000 Wilmington	Mechanic	7 AM To 3:30 PM
Urquizu, Luis	41000 Wilmington	Mechanic	4 PM to 4 AM
Villa, Guillermo M.	41110 South Bay	Hazmat Drivers	2 PM to 2 AM
Young, Raymund	41000 Wilmington	Hourly Supervisor	6:30 PM to 6:30 AM

ATTACHMENT D

<u>Name</u>	<u>Location Name</u>	<u>Job Name</u>	<u>Shift</u>
Cortez, Jorge	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Cortez, Juan	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Gramajo, Carlos	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Medina, Nelson	41000 Wilmington	Petcoke Driver	5 PM to 5 AM ON CALL
Overa, Martin	41000 Wilmington	Petcoke Driver	5 AM to 5 PM ON CALL
Salazar, Manuel	41000 Wilmington	Petcoke Driver	5 PM to 5 AM ON CALL
Young, John	41000 Wilmington	Petcoke Driver	5 PM to 5 AM ON CALL

CERTIFICATE OF SERVICE

CASE NO. 21-RC-219057

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within cause. My business address is 275 Middlefield Road, Suite 100, Menlo Park, California 94026.

I served the below listed document(s) described as:

SAVAGE SERVICES CORPORATION'S STATEMENT OF POSITION

on May 2, 2018, on the following parties to this cause by mailing a copy of the above document(s) as follows:

Ira L. Gottlieb Julie Gutman Dickson Megan Degeneffe Bush Gottlieb, a Law Corporation 801 North Brand Boulevard, Suite 950, Glendale, CA 91203-1260 buddyg@bushgottlieb.com jgutmandickinson@bushgottlieb.com mdegeneffe@bushgottlieb.com	William B. Cowen National Labor Relations Board Region 21 888 South Figueroa Street 6 th Floor Los Angeles, California 90017 William.Cowen@nrlrb.gov Danielle.Giever@nrlrb.gov Nathan.Seidman@nrlrb.gov
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by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 2, 2018, at San Francisco California.



Karen D. Davis

Exhibit B

Compensation & Benefits Statement
Confidential & Private
 For 1/1/2017 - 12/31/2017

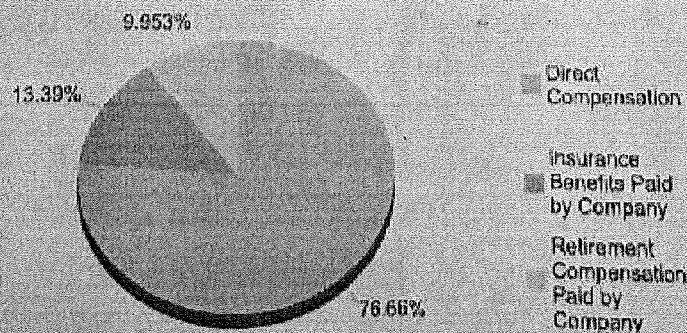
To: Martin Overa

Thank you for your hard work and dedication. We appreciate everything that you do to help us succeed together. Your efforts are making a difference!

We are pleased to present you with your Savage **Total Rewards** Compensation & Benefits Statement. This summary was prepared to ensure you have a more complete picture of the total compensation you earn as a member of the Savage team. Your compensation includes much more than what you see on your paycheck. If you have questions about your individualized statement below, please don't hesitate to ask. You are an important part of Savage and we are providing this so you will know how much we value your contributions. Thank You!

Compensation	Savage Contribution
Hourly Pay	\$24,351.65
Regular Pay	\$22,638.16
Quarterly Bonus	\$1,842.63
Overtime	\$1,094.87
US Holiday Pay	\$800.00
US Paid Time Off	\$800.00
Other Bonus	\$250.00
Safety Specialist	\$75.00
Total Earnings	\$51,852.31
Insurance Benefits	Savage Contribution
Medical Insurance	\$8,294.30
Dental Insurance	\$663.00
Life Insurance	\$49.17
Disability	\$47.38
Total Benefits	\$9,053.85
Retirement	Savage Contribution
Social Security and Medicare	\$3,746.54
**Profit Sharing	\$2,985.58
Total Retirement	\$6,732.12
Your Total Rewards & Benefits	\$67,638.28

Notes:



**Estimate based on your base wages for the period shown

The information on this report is strictly confidential and should only be shared between you and your supervisor. Please shred this report or

Savage Services Corporation
 901 W Legacy Center Way
 Midvale, UT 84047
 801-944-2525

Check Date: 02/23/2018
 Check Number: 111744
 Pay Frequency: BI-Weekly
 Pay Period Dates: 02/17/2018 - 03/02/2018
 Tax Freq for this Payment: BI-Weekly

Employee Information			Tax Type		Tax Jurisdiction		Status		Exem		Adjs		Other Tax Information	
mar J Rivas 224 W 111TH ST PT 4 LOS ANGELES, CA 90044			ID#: 23151 SSN#: Pay Type: Base Rate: 13.4000 Dept:		Federal State		CA		Single Single		8 4		\$0.00 \$0.00 Alt Code 01	
Earnings								Pre-Tax Deductions Withheld						
Pd Start	Pd End	Description	PayRate	Hrs/Units	Earnings	YTD Hrs	YTD Earnings	Description	Sch/Amt	Curr Amt	YTD Amount			
		Regular	4.0000	1.3300	242.39	51.7300	3019.43	401(k) Pretax %	9.00%	156.53	1078.51			
		Regular	8.0000	11.6600	5.32									
		Regular	12.0000	0.5300	93.28									
		Holiday			6.36									
		Overtime			118.13	47.4000	800.00							
		Overtime	20.1000	12.3300	247.83		1577.12							
		Sick Pay	20.0000	14.7300	294.60	14.7300	294.60							
		Paid Time Off	20.0000	11.0800	221.60	31.0800	621.60							
		Hourly Pay	0.2500	37.0000	9.26	744.1200	5659.31							
		Hourly Pay	0.3750	12.3300	4.62									
		Hourly Pay	13.4000	37.0000	495.80									
		Quarterly Bonus					391.83							
		Other Pay					11.26							
		*401(k) ER Match			48.70		335.53							
Total Pre-Tax										156.53	1078.51			
Taxes Withheld														
Description								Tx Wages	Curr Amt	YTD Amount				
Fed W/H								1582.66	16.34	586.20				
FICA EE								1739.19	107.83	767.26				
Fed M/W EE								1739.19	25.22	179.44				
CA W/H								1582.66	28.40	441.09				
CA DT EE								1739.19	17.39	123.75				
Total Taxes									195.18	2097.74				
Post-Tax Deductions Withheld														
Description								Sch/Amt	Curr Amt	YTD Amount				
401(k) Loan										394.96				
Total Hours and Earnings				137.9900	1739.19	889.0600	12375.15							
Other Payroll Information														
Position:		Driver - 4100												
Site:		Wilmington												
Messages from your Employer														
Indicates Taxable Benefit or Memo, not included in Totals														
Total Post-Tax										0.00	394.96			
Net-Pay Distribution														
Description								Account Number		Amount				
Check										1387.48				
Total Current Net Pay										1387.48				
Gross To Net Recap		Paid	Pre-Tax	Taxes	Deductions	Total Net Pay								
Current		1739.19	156.53	195.18	0.00	1387.48								
YTD		12375.15	1078.51	2097.74	394.96	8803.94								

Position: Driver - 4100
 Site: Wilmington

Messages from your Employer
 Indicates Taxable Benefit or Memo, not included in Totals



801-944-2525

for this Payment: Bi-Weekly

Status	Exam	Adjs	Other Tax Information
Single	6		Alt Code 01
Single	6		

Pre-Tax Deductions				
Description	Sch/Amnt	Cur Amnt	YTD Amount	
Health %	3.00 %	87.42	360.48	
Total Pre-Tax				
Takes Withhold		87.42	360.48	
Description	Tx/Wages	Cur Amnt	YTD Amount	
Other	2,913.87	42.25	18,144.80	
HI	2,913.87	223.65	953.50	
E	2,913.87	180.66	778.66	
	2,913.87	29.14	125.14	
	2,926.45	131.70	474.66	

Total Taxes		607.40	2,510.3
Post-Tax Deductions Worksheet			
Description	Sch Amt	Curr Amt	YTD Amount
Total Post-Tax			
Net-Pay Distribution			
Description	Account Number	Amount	
		2,219.0	
Total Current Net Pay			2,219.0